IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17418 of 2004

Between:

Smart Chem Workers' Union, C.I.T.U. Office,

Indiranagar Colony, Srikakulam, Regd.No.D/1951/2003,
rep.by its General Secretary, Panga Raja Rao,

S/o Polivadu, aged 28 years, Venkannagaripeta Village,
Ponnada Post, Etcheral Mandal, Srikakulam District

..... PETITIONER

AND

1. The Principal Secretary to Government,

Labour Employment and Factories Department,
State of A.P., Hyderabad.

2 The Assistant Commissioner of Labour-cum-Conciliation Officer,

Opp: Chandra Mahal, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ, more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not referring the dispute for adjudication to the Industrial Tribunal Cum Labour Court, Visakhapatnam, in pursuance of the factual (failure) report submitted by the Conciliation Officer-cum-Asst.Commissioner of Labour, Srikakulam, the 2nd respondent herein in Rc.A2/1836/2002 dated 31-3-2003 as illegal, arbitrary and violative of the provisions of Section 10 of the Industrial Disputes Act, 1947 and consequently direct the 1st respondent to refer the dispute to the Industrial Tribunal Cum Labour Court, Visakhapatnam for adjudication without further delay and pass such other order or orders in the interests of the justice.

Counsel for the Petitioner: MR.V.SUDHAKAR REDDY
Counsel for the Respondents: G.P. FOR LABOUR

The Court at the stage of admission made the following

ORDER:

The petitioner-Workers' Union raised a dispute before the second respondent in respect of certain demands. There were deliberations in a series of joint meetings, but the matter could not be settled. Therefore, the matter was admitted for conciliation and conciliation proceedings were held. Since no amicable settlement could be arrived at the instance of the second respondent, the second respondent closed the conciliation proceedings and submitted failure report to the first respondent on 31-03-2003 under Section 12 (4) of the Industrial Disputes Act, 1947 (for short 'the Act'). In spite of receipt of the said failure report, the first respondent did not pass any orders. The petitioner submitted a representation to the first respondent on 27-01-2004 requesting him to refer the matter for adjudication, but no orders have been passed by the first respondent. The petitioner, therefore, approached this Court seeking a direction to the first respondent to pass appropriate orders on the failure report sent by the second respondent.

The grievance of the petitioner is that the first respondent is not passing any orders on the failure report sent by the second respondent. It is further submitted that due to the undue delay caused by the first respondent, much injustice is done to the members of the petitioner-Workers' Union.

Having regard to the facts and circumstances explained by the petitioner, the first respondent is directed to pass appropriate orders on the failure report submitted by the second respondent on 31-03-2003 and take a decision to refer the matter for

adjudication to the Industrial Tribunal, within four weeks, from the date of receipt of a copy of this order, under the provisions of the Act.

Accordingly, the Writ Petition is disposed of. No costs.

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Dr.G.Yethirajulu, J

29th September, 2004

Note: Issue CC in two days

B/o.

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To

1. The Principal Secretary to Government,

Labour Employment and Factories Department,
State of A.P., Hyderabad.

2 The Assistant Commissioner of Labour-cum-Conciliation Officer,

Opp: Chandra Mahal, Srikakulam.

3. Two CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.